

Andover Conservation Commission Meeting Minutes

March 6, 2012

Town of Andover
36 Bartlett Street
3rd Floor Conference Room A
7:45 p.m.

Conservation Commission Members in Attendance:

Chairman Cooper, Commissioner Porter, Commissioner Honea, Commissioner Fink, Commissioner Walsh, Commissioner Greenwood and Director Robert Douglas and Agent Linda Cleary were also present.

SCHEDULED ITEMS:

23 Belknap Drive, DA2012-002

Public Meeting on the Request for Determination of Applicability filed by Michael S. Margitich & Hilary E. Vey to determine if the proposed replacement of an existing damaged deck & stairs is subject to the Massachusetts Wetlands Protection Act, M.G.L. Chapter 131, § 40, and/or the Andover Wetlands Protection By-law, Article XIV.

Present in Interest: Mike Margitich, Hilary Vey and Alan Nelson- A.C. Nelson Cartography

Agent Cleary presented the site plan for replacement and slight expansion of a deck using helical piers. Filing is under the WPA only, due to the date of the dwelling (1982). The revised wetland boundary reflects changes made by staff and the revised site plan is referenced in the draft decision. A waiver is required from the Commission's 50 ft. no-build zone standard. The previous deck and new deck are 33.4 feet from the wetlands. The homeowner also agreed to remove some yard debris and fallen trees from the wetlands, and asked for relief from installing sediment control. Minimal earth-disturbing activity will occur during pier installation, and there is a 5-foot vinyl stockade fence surrounding the proposed work area. Ms. Cleary recommended approval as a Pos. 2a. by confirming wetland flags WL-1A – WL-8A inclusive, and a Neg. 3 subject to conditions.

The Commission reviewed the draft conditions and recommended waivers. They asked about machinery needed to install the piers. Alan Nelson of A.C. Nelson Cartography explained that he will use a hand-operated device about the size of a lawn mower for the installation.

Mr. Douglas stated the applicant was a personal friend, and that the project was handled by Agent Cleary alone.

Commissioner Greenwood made a Motion to grant the waivers for setback and erosion controls, and to approve the project as a Pos. 2a. confirming wetland flags WL-1A, WL-8A inclusive, and Neg. 3 subject to the conditions as drafted. It was seconded by Commissioner Walsh and unanimously approved.

ACTION ITEMS:

Victoria Place Subdivision, 82-88 River Street, DEP File #090-0790

Request for a one-year extension of the Order of Conditions

Present in Interest: Attorney Don Borenstein

Agent Cleary presented to Commission that on March 9, 2010, the applicant requested an extension to the OOC for one year. On April 13, 2010, the Commission by unanimous vote denied the one-year extension for several reasons. Most importantly, Victoria Place Subdivision no longer existed as a viable project after Planning Board denial and a judgment on an appeal issued by the Land Court on May 1, 2009, dismissing the case with prejudice in favor of the Planning Board. The denial was also based on other factors such as: changes in delineation of Riverfront Area, BVW, and Land Subject to Flooding; new stormwater regulations that had been implemented after the OOC had been issued; and lack of an "appointed site monitor". No substantive work had begun at that time.

The OOC was subsequently resurrected through the Permit Extension Act in August of 2010 for two years and will end on May 23, 2012. The applicant commenced roadway and utility construction at his own risk. In the meantime, the applicant has obtained a 40B Comprehensive Permit for a multi-family development, "Taylor Cove", on the site. The Commission denied an Order of Conditions for Taylor Cove, DEP File # 090-1112, and that OOC is currently under appeal with DEP. Ms. Cleary reported that more earth removal and utility work has occurred (without stabilization of exposed materials) since the August 2011 DEP site visit.

Ms. Cleary recommended denying the extension of Victoria Place for the same reasons it was denied in 2010.

Attorney Don Borenstein reported that that he had talked to DEP about the delineation that is presently under review and expects the Superseding Order soon for Taylor Cove. He said the infrastructure for Taylor Cove is mostly the same as for Victoria Place, and asserted that a request for an extension of Victoria Place was appropriate to maintain an orderly process.

Chairman Cooper stated to Mr. Borenstein that the applicant needs other permits to proceed with Taylor Cove. Commissioner Fink stated that the subdivision was not permitted by planning. Until we get a final design and approvals for Taylor Cove, it would be a waste of time and money to continue work under the subdivision OOC. Commissioner Greenwood stated that it would be difficult to not deny the extension. Commissioner Porter also expressed his concern about proceeding with work at this time.

Commissioner Greenwood made a Motion to deny the request for a one-year extension to the Order of Conditions for Victoria Place Subdivision; it was seconded by Commissioner Honea and unanimously approved.

Girl Scout Troop 60374

Requests for a Special Project Permit to make 14 Eastern Bluebird nest boxes and then hang them in Conservation Reservations

Present in Interest: **Lydia Cardin, Leader of Troop 60374 and Girl Scouts**

Staff Recommendation: Approve Project under Supervision of Robert Decelle

Leader Cardin and her Troop gave a presentation to the Commission on their project of building Eastern Bluebird Nesting Boxes. The Troop wanted to scale back their project to 7 nesting boxes due to the distance required between boxes, at least 100 yards. The hope is to earn the Scouting Bronze Award.

Commissioner Honea asked if they researched what type of habitat would be the best place to locate the boxes, and the girls said an open area with lots of light. Boxes will be attached to posts or trees. The boxes will be hung before the end of April. Commissioner Greenwood suggested a smooth post would be best to prevent predators. Ms. Cardin will check with the Overseers and Robert Decelle on locations for the boxes and monitoring at each site. Chairman Cooper asked, what measures would be taken to prevent other type of birds from taking residence in these boxes? Commissioner Fink asked if there were provisions made to clean out the boxes. The Troop will clean out the nests each year. The project will be also supervised by Robert Decelle.

Commissioner Porter made a Motion to approve the Special Permit for the project by Girl Scout Troop 60374; it was seconded by Commissioner Honea and unanimously approved.

CONSENT AGENDA:

Commissioner Walsh left the room during the Consent Agenda and recused himself from voting on these items.

Minutes

The Commission reviewed draft minutes for the meeting of February 7, 2012.

Commissioner Honea made a Motion to approve the minutes of February 7, 2012, as drafted; it was seconded by Commissioner Porter and unanimously approved.

Sewerage Works Improvements, Contract 2 – Ballardvale Road Area, DEP File #090-0815 Request for Certificate of Compliance

Upon recommendation by staff, Commissioner Honea made a Motion to issue a Certificate of Compliance for the Order of Conditions for Sewerage Works Improvements, Contract 2; it was seconded by Commissioner Porter and unanimously approved.

DISCUSSION ITEMS:

Commissioner Walsh returned to the meeting.

100 & 110 Corbett Street (Lebanese Cemetery)

Issuance of an Enforcement Order for alterations to jurisdictional wetlands and buffer zone at 100 & 110 Corbett Street

Director Douglas reported that he received a phone call from a neighbor on Corbett Street about tree-cutting in the cemetery. Dave Dargie responded and ordered activities to cease. Mr. Douglas arranged an inspection with the owners, also attended by Commissioner Fink. Mr. Douglas presented older aerial photos and photos of current site conditions to the Commission. The photos showed disturbance of about 1 acre of land, including wetlands and buffer zones. The previously forested land has been stripped of trees, shrubs and ground cover. There was massive disturbance of soils and plants in wetlands due to the operation of heavy equipment. Several vehicles were parked on site.

Commissioner Fink described a pond, a stream channel, and other low areas with wetlands soils and surface water. All had been cleared and driven over. There was also a large stock pile of debris on-site, in an area that appears to have been filled over time, probably including filling of wetlands. The pond might be a vernal pool. There was dirt tracked onto the adjacent road, and an open catch basin in the roadway.

During the site visit, the cemetery representatives said that they wanted to expand the graveyard. Mr. Douglas and Ms. Fink explained that any expansion would require permits from Conservation and Health, and that first we would need a detailed plan site plan.

Director Douglas proposed to issue an Enforcement Order. The Order would require: immediate cessation of all activities within disturbed area; removal of all machinery from the disturbed area; leaving cut trees and brush on site; providing temporary soil stabilization with erosion barriers as directed by the Conservation Agent; street sweeping to remove all debris deposited on the pavement; and preparation of a surveyed site plan showing existing conditions.

Mr. Douglas also proposed that the Cemetery be required to submit within fourteen days funding in the amount of \$4,950.00 to the Town of Andover for use by Commission to hire a professional wetland scientist to delineate and characterize all wetlands resource areas on the site and prepare a written report to the Commission concerning the basis for the delineation characterization. The delineation is to be included on the site plan.

Commissioner Walsh made a Motion to issue the Enforcement Order as proposed to document alterations of areas subject to jurisdiction, including a requirement to fund our wetland consultant for the delineation; it was seconded by Commissioner Honea and unanimously approved.

Fosters Pond Reservation

Proposal on signage and parking from Fosters Pond Association
Present – Robert Decelle, Conservation Special Project Manager

The Commission reviewed a letter dated February 29, 2012 from Steve Cotton, President of Fosters Pond Association proposal from the Fosters Pond Association concerning the placement and wording of signs, the location of parking spaces, gates, notification about use of the Reservation, and other matters related to access via Willard Circle. Several Commissioners had visited the area prior to the meeting.

Director Douglas described previous discussions with the Association about these matters. There are some differences of opinion between FPA and the Commission about parking locations, signage, whether a “permit” is needed from the FPA, and other matters.

Robert Decelle proposed placing a sign at the entrance to Willard Circle from Andover Street in Wilmington. The sign would read, “Private Way with Public Access to Fosters Pond Reservation Land Only”. Additional signs at forks in the road would read, “Public Parking for Fosters Pond Reservation Conservation Area”, with arrows to direct turns.

Chairman Cooper reported that Mr. Cotton had been trying to reach him to discuss these matters. He suggested that the Land Management Committee and he would meet with Mr. Cotton to review the Commission’s ideas. Chairman Cooper directed Mr. Douglas to arrange the meeting around the third week of March. The attendees should include the following; Chairman Cooper, Robert Decelle, Robert Douglas, and Steve Cotton. The Commission agreed to this plan.

Adjournment

The next meeting will be held at 7:45 p.m. on March 20, 2012.

The meeting was adjourned at 9:15 p.m. by Motion of Commissioner Greenwood. It was seconded by Commissioner Driscoll and unanimously approved.

Respectfully submitted by:

Wendy Adams
Recording Secretary